

## ***FWP COMMISSION AGENDA ITEM COVER SHEET***

**Meeting Date:** December 9, 2010

**Agenda Item:** LaMarche Creek Water Right Lease

**Division:** Fish & Wildlife (Fisheries Bureau)

**Action Needed:** Final Approval

**Time Needed on Agenda for this Presentation:** 10 minutes

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### **Background**

LaMarche Creek, a tributary entering the Big Hole River about 15 miles west of Wise River, provides important habitat for fluvial Arctic grayling, a candidate species for listing under the Endangered Species Act. Habitat improvement projects on the creek include improved irrigation infrastructure and fish passage, riparian fence and off-stream stock water systems, 16 high quality pools, and a Grazing Management Plan. Ensuring adequate instream flows through a water right lease will compliment these habitat improvement projects.

The landowner is enrolled in the Candidate Conservation Agreement with Assurances program, and a Site-Specific Conservation Plan is now complete. As part of the Site-Specific Plan, which includes a flow conservation plan, LaMarche Creek Ranch has agreed to allow FWP to pursue a “change of use” from irrigation to instream flow. They have agreed to cease irrigation from the creek and limit irrigation from a tributary to provide instream flow to benefit the fishery through October, 2020. However, if they sell the property the new owners would have the option of opting out of the water lease early. LaMarche Creek Ranch will receive no monetary compensation for the water lease. Because the water right is the most senior in priority on the stream, it will help protect instream flows during water shortages.

The FWP Commission endorsed this project in May 2010 and since that time a lease agreement has been negotiated with LaMarche Creek Ranch. Upon commission approval, FWP will prepare and pursue the water right change with DNRC.

### **Public Involvement Process & Results**

The agenda for the May 13, 2010 Commission meeting included this item for endorsement. FWP has since met with the rancher that leases the LaMarche Creek Ranch property to coordinate the ultimate implementation of the water lease. If the commission provides final approval for this project, DNRC will complete an Environmental Assessment and provide an opportunity for other water users to object as part of the water right change process. FWP does not intend to prepare an EA to prevent redundancy with the DNRC environmental review.

### **Alternatives and Analysis**

Under the No Action Alternative, FWP wouldn't take advantage of this opportunity to pursue the water right lease. Other private entities could complete the lease, but this outcome is uncertain.

### **Agency Recommendation & Rationale**

FWP recommends that the commission approve the lease agreement and authorize FWP to file an application with DNRC to change the water rights to instream flow. This would provide for the protection and restoration of the Big Hole Arctic grayling population and for added legal protection of the water management strategies intended to improve grayling habitat.

### **Proposed Motion**

I move to approve the Water Right Lease Agreement with LaMarche Creek Ranch and authorize FWP to file the associated water right change with DNRC.